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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/990,270	11/23/2001	Kazuo Horikawa	VX012386	2409

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EXAMINER

VAN PELT, BRADLEY J

ART UNIT	PAPER NUMBER
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3682

DATE MAILED: 02/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/990,270

Applicant(s)

HORIKAWA, KAZUO

Examiner

Bradley J Van Pelt

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, an intermediate rocking lever link and the link mechanism must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

3. The abstract of the disclosure is objected to because it exceeds 150 words. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 3 and 4 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

It is not clear or understood by the examiner as to what the link mechanism for making only said locking lever idle is. Furthermore, it is unclear as to what the structure referred to in lines 1-8 of claim 3 is.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1-4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 1-3, the locking lever is not shown in an idle position at the control selector lever stroke end, as shown the locking lever continues to rotate as the control selector lever is maintained stationary.

Claim 1 recites the limitations "the linkage," in line 7 and "the rocking stroke" in line 9. There is insufficient antecedent basis for these limitations in the claim.

Claim 2 is confusing because it is unclear as to whether or not the "link mechanism for quitting said pulling or pushing associated motion" is the same as the intermediate rocking lever link or an additional link.

Claim 2 is confusing because line 7 is confusing.

Claim 2 recites the limitation " the rocking position" in line 14. There is insufficient antecedent basis for this limitation in the claim.

Claim 3 recites the limitation " the rocking locus" in line 15. There is insufficient antecedent basis for this limitation in the claim.

Claim 4 is inaccurate because the toggle spring mechanism is used for biasing to rock said cam pin not the action transmitting cam groove portion and the inaction transmitting cam groove portion.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yoshimura (JP 1-145430) in view of Whipple et al. (USPN 3,780,842).

Yoshimura discloses a lock lever device for working implement drive control system, comprising: a locking lever (10); and a control selector lever (43) linked to said locking lever for switching the working implement drive control system into a controllable or uncontrollable state by operating said locking lever, wherein the linkage linking (21) said locking lever and said

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control selector lever includes an idle motion stroke mechanism (23a, 23b) for switching the rocking stroke of said locking lever by bringing said control selector lever to a stroke end, to make said locking lever idle till the stroke end while holding the switching state of said control selector lever.

Yoshimura discloses said linkage includes: an intermediate rocking lever link (21) associated to follow the rocking motion of said locking lever; and a link rod (12) for transmitting the rocking motion of said intermediate rocking lever link to said control selector lever, and wherein the following association between said locking lever and said intermediate rocking lever link includes: a link mechanism (23) engaging with an output lever rocking end (26) for rocking integrally with said locking lever, so that said intermediate rocking lever link is pulled or pushed; and a link mechanism for quitting said pulling or pushing associated motion to make only said locking lever idle while retaining said intermediate rocking lever link at the rocking position.

Yoshimura discloses the link mechanism for said intermediate rocking lever link to receive the pulling or pushing action therefrom and the link mechanism for making only said locking lever idle while retaining said intermediate rocking lever link at the rocking position are made of an engaging relation between an arcuate cam groove (23) formed in said intermediate rocking lever link and a cam pin (outside of 26) mounted at the output lever rocking end to rock integrally with said locking lever, and wherein the arcuate cam groove for said cam in to engage therewith includes: an action transmitting groove portion (23) for following the rocking motion of said output lever rocking end to transmit the pulling or pushing action to said intermediate rocking lever link; and an inaction transmitting cam groove (23a, 23b) portion following the

rocking locus of said output lever rocking end to prevent the rocking action of said output lever rocking end from being transmitted to said intermediate rocking lever link.

Yoshimura do not disclose the idle motion stroke mechanism switches midway or the locking lever includes a toggle spring mechanism.

Whipple et al. disclose an idle motion stroke mechanism (61) that switches midway (see column 5 lines 51-61) and a locking lever including a toggle spring mechanism (121).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the locking lever apparatus of Yoshimura with a motion stroke mechanism that switches midway and a toggle spring for the purpose of achieving the desired idle function and maintaining lever position respectively.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Wineburner et al. (USPN 4,140,027), Yapp et al. (USPN 4,445,394), Noffke (USPN 4,474,357), Baba (USPN 4,898,045), Schemelin et al. (USPN 5,094,326), Worner et al. (USPN 6,170,353).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bradley J Van Pelt whose telephone number is (703)305-8176. The examiner can normally be reached on M-Th 7:00-4:30, 2nd F 7:00-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A Bucci can be reached on (703)308-3668. The fax phone numbers for the organization where this application or proceeding is assigned are (703)746-9391 for regular communications and (703)305-3597 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-2168.

BJVP *BJVP*
February 24, 2003

[Signature] 2/24/03
DAVID A. BUCCHIERI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600